

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

LEON C. PRIEST, et al.

Plaintiffs,

v.

**ASBESTOS CORPORATION LIMITED,
et al.,**

Defendants.

: **Civil Action No. 14-2697 (CCC)**
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: **REPORT & RECOMMENDATION**
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JAMES B. CLARK, III, U.S.M.J.:

THIS MATTER having come before the Court upon Defendant Asbestos Corporation Limited's ("Defendant") motion to dismiss Plaintiff's complaint pursuant to Fed. R. Civ. P. 12(b)(2) for lack of personal jurisdiction [Docket Entry No. 32]; and

WHEREAS Defendant argues that this Court cannot assert *in personam* jurisdiction over Defendant, as Defendant does not have the requisite "minimum contacts" with New Jersey as outlined in *International Shoe Co. v. State of Washington*, 326 U.S. 310, 316 (1945); and

WHEREAS the Court finds that on a motion under Rule 12(b)(2), the plaintiff bears the burden to prove, by a preponderance of the evidence, facts sufficient to establish jurisdiction (*D'Jamoos v. Pilatus Aircraft Ltd.*, 566 F.3d 94, 102 (3d Cir. 2009) ("Once a defendant challenges a court's exercise of personal jurisdiction over it, the plaintiff bears the burden of establishing personal jurisdiction")); and

WHEREAS Plaintiffs have not filed any opposition to Defendant's motion; and

WHEREAS the Court finds that a plaintiff may not “rely on the pleadings alone” in opposition to a 12(b)(2) motion, as “allegations in a complaint are insufficient” to establish personal jurisdiction (*Brahney v. Pinnacle Credit Servs.*, 2014 U.S. Dist. LEXIS 120791 at *6 (D.N.J. Aug. 29, 2014); *see also Time Share Vacation Club v. Atl. Resorts, Ltd.*, 735 F.2d 61, 66 n.9 (3d Cir. 1984) (“[A]t no point may a plaintiff rely on the bare pleadings alone in order to withstand a defendant's Rule 12(b)(2) motion to dismiss for lack of *in personam* jurisdiction...Once the motion is made, plaintiff must respond with actual proofs, not mere allegations”) (internal citation omitted)); and

WHEREAS the Court further finds that Plaintiffs’ failure to oppose Defendant’s motion has resulted in a failure to provide “actual proofs” (*Northstar Marine, Inc. v. R&A Marine, LLC*, 2013 U.S. Dist. LEXIS 104153 at *5 (D.N.J. July 23, 2013) (“Plaintiff has failed to oppose Defendants’ [12(b)(2)] motion and, thus, has not carried its burden of establishing jurisdiction”));

IT IS on this 11th day of **December, 2014**

RECOMMENDED that Defendant’s motion to dismiss be GRANTED as unopposed; and it is further

ORDERED that the Clerk of the Court terminate the aforementioned motion [Docket Entry No. 32] accordingly.

Parties are advised that they may file an objection within 14 days of the date of this Order pursuant to Fed. R. Civ. P. 72(b)(2).

s/ James B. Clark, III
JAMES B. CLARK, III
United States Magistrate Judge